

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2005/000395

International filing date (day/month/year)
04.02.2005

Priority date (day/month/year)
06.02.2004

International Patent Classification (IPC) or both national classification and IPC
B05B11/00

Applicant
GLAXO GROUP LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2005/000395

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2005/000395

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,2
Inventive step (IS)	Yes: Claims	
	No: Claims	1,2
Industrial applicability (IA)	Yes: Claims	1-98
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1 Reference is made to the following documents:

D1 : FR 2 692 040

D2 : WO 90/07351

2. CERTAIN OBSERVATIONS

3. Clarity

3.1 The application does not meet the requirements of Art. 6 PCT because claim 1 is not clear.

3.2 Claim 1 is not clear in the sense of Article 6 PCT, because it contains a reference to - the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here.

3.3 Claim 1 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The described functional statements do not enable the skilled person to determine which technical features are necessary to perform the stated functions.

3.4 As a consequence, claims 1 is unclear in the present form so that no meaningful opinion could be formed on novelty and inventive step in respect of their subject-matter, as well as on the subject-matter of their respective dependent claims (Article 34(4)(a)(ii) PCT).

3.5 However it seems that at least claims 1 and 2, as interpreted, lack novelty with respect to (D1) and (D2).

3.6 In addition, the following formal issues should be attended to, when filing a reply to this Written Opinion:

3.7 The number of claims must be reasonable when considered in relation to the nature

of the invention claimed, and undue repetition of wording, for example between one claim and another, should be avoided (see also PCT Rule 6.1(a))

- 3.8 In order to meet the requirements of Rule 6.3(b) PCT, any amended independent claim to be filed should be properly cast in the two-part form, having a pre-characterizing portion which correctly reflects the features which in combination are known from the prior-art document.
- 3.9 Care should be taken during the revision not to add subject-matter which extends beyond the content of the application as originally filed (Article 34(2)(b) PCT).
- 3.10 At present, it is not apparent which part of the application could serve as a basis for a new claim which would satisfy the criteria set forth in Article 33 PCT. Should the applicant nevertheless regard some particular matter as suitable an independent claim including such particular matter should be filed taking account of Rule 6.3 b) PCT. The applicant should also indicate in the letter of reply the difference vis-à-vis the state of the art and the significance thereof.